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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,457	10/17/2001	Johnson Jiahui Qin	2705-703	7400

20575 7590 08/22/2007  
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EXAMINER

STRANGE, AARON N

ART UNIT	PAPER NUMBER
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2153

MAIL DATE	DELIVERY MODE
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08/22/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/982,457

Applicant(s)

QIN, JOHNSON JIAHUI

Examiner

Aaron Strange

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 14-26 and 31 is/are rejected.
- 7) ☒ Claim(s) 9-13, 27-30 and 32-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The Examiner would like to note that the present application has been reassigned to a new Examiner.

### ***Response to Arguments***

2. Applicant's arguments, see page 16, filed 6/8/07, with respect to claim 9 have been fully considered and are persuasive. The rejections of claims 9-13, 27-30 and 32-34 have been withdrawn, since they contain substantially identical subject matter.
3. Applicant's remaining arguments filed 6/8/07 have been fully considered but they are not persuasive.
4. With regard to claim 1, and Applicant's assertion that Ginter fails to disclose "determining whether the registered user is entitled to perform a commercial transaction to download software ... [by determining if] the register user has provided financial consideration for the software to be downloaded" (Remarks, 14), the Examiner respectfully disagrees. For example, Ginter discloses verifying that a user has paid for a book prior to allowing them access to the book (at least col. 58, ll. 28-49). Similarly, when a user requests any other type of content, the system checks to see if the transaction may be processed, based on the user's profile, and charges the user for the content (col. 315, ll. 42 to col. 316, ll. 52). Only after all transactions related to delivery have been completed is the content delivered to the user (col. 316, ll. 33-35).

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With regard to Applicant's assertion that Ginter fails to disclose "establishing a service contract" (Remarks, 15), it is noted that this limitation is claimed as an alternative.

5. With regard to claim 14, and Applicant's assertion that Ginter fails to disclose prompting a user to provide financial consideration for software to be downloaded (Remarks, 15), the Examiner respectfully disagrees. Ginter discloses prompting a user to pay for an object in response to the user's request for that object (col. 184, ll. 34-36 and 63-67).

6. With further regard to claim 1, and Applicant's assertion that the end users in Ginter "do not perform internal software development activities that create or modify software projects" (Remarks, 16), the Examiner respectfully disagrees. Ginter discloses that providers allow users to add, hide, modify, remove and/or extend content (col. 285, ll. 67 to col. 286, ll. 2). Ginter further discloses that providers of software development tools allow users to add similar or complementary tools (col. 286, ll. 36-39). It is clear that at least these users of Ginter perform software development activities that create or modify software projects.

***Claim Objections***

7. Claims 1-34 are objected to because of the following informalities: Several claims contain an apparent typographical error "register user" (e.g., claim 1, ll. 11; claim 31, ll. 13). Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. With regard to claim 2, the limitation "if said requester is not a registered user" renders the claim indefinite. Claim 1, from which claim 2 depends, contains an explicit recitation of "determining the request is from a registered user". Since the method of claim 1 will never have an unregistered requester, it is unclear what Applicant intends to incorporate with this limitation.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-8, 14-26 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al. (US 5,892,900).

13. With regard to claims 1, 20, 26 and 31, Ginter discloses an automated software distribution method comprising:

receiving a request to access a software distribution system (col. 315, ll. 42-43);

determining the request is from a registered user (col. 315, ll. 43-50);

determining whether the registered user is authorized to perform an internal software development activity corresponding to software projects in the software distribution system (users may add, modify, or delete objects, including software development tools)(col. 285, ll. 65 to col. 286, ll. 48) and determining whether the registered user is authorized to perform a commercial transaction to download software from the software distribution system (only certain users are given access to certain content)(col. 57, ll. 1-5);

providing the registered user access to one or more software projects and tools that facilitate the development of the software projects when the registered user is authorized to perform internal software development activity, where the register user utilizes the tools to create or modify the projects (users may use tools to develop software and may add complementary tools)(col. 286, ll. 34-39);

determining whether the registered user is entitled to perform a commercial transaction to download software from the software distribution system (determine whether user has permission to use the content)(col. 57, ll. 1-5; col. 58, ll. 35-49), where the register user is entitled to perform a commercial transaction with the software distribution system when the register user has provided financial consideration for the software to be downloaded from the software distribution system or established a service contract corresponding to the software to be downloaded (user may be required to pay for content)(col. 57, ll. 5-6; col. 58, ll. 35-49);

providing the registered user access to software available for distribution that the registered user is entitled to download from the software distribution system, where the register user downloads the software from the software distribution system when the registered user is both authorized and entitled to perform commercial transactions to download software from the software distribution system (if the user has paid for content, they can access it)( col. 57, ll. 5-6; col. 58, ll. 35-49);

storing and tracking information associated with both internal software development activity performed by registered users and commercial transactions resulting in software being downloaded from the software distribution system by

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registered users (content providers may be notified about usage of their content)(col. 57, ll. 6-9; col. 286, ll. 29-31).

14. Regarding claim 2, Ginter discloses notifying said requester that access is not granted (Col 58, line 36; Col 315, line 44) and providing the requester an opportunity to register with the software distribution system (col. 314, ll 62 to col. 315, ll. 25).

15. Regarding claim 3, Ginter discloses the request is received from an internal user via an internal LAN (Col 168, lines 10-15).

16. Regarding claim 4, Ginter discloses the request is received from an external user via the internet (Col 315, lines 26-28).

17. Regarding claim 5, Ginter discloses said access to one or more software projects allows the registered user to access an internal storage of software products (content is stored in internal storage)(Col 315, lines 59-63).

18. Regarding claim 6, Ginter discloses that said access to one or more software projects allows the registered user to download software code, make changes and upload the modified code (Col 285, line 65 – Col 286 line 39; Col 320, lines 43-46).



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19. Regarding claim 7, Ginter discloses the transaction is engaged in an electronic commerce environment (Col 1, lines 17-20).

20. Regarding claim 8, Ginter discloses a software transaction process is utilized (Col 316, lines 6-34).

21. With regard to claim 14, Ginter further discloses  
examining the commercial transaction rights of the registered user (Col 316, lines 6-22);

making a determination if the registered user has entitlement to proceed with a commercial transaction (Col 316, lines 22-23);

when the registered user is not entitled to proceed with the commercial transaction, prompting the registered user to provide financial consideration for the software to be downloaded or to establish a service contract for the software to be downloaded (prompt user for payment) (col. 184, ll. 34-36 and 63-67)

investigating to determine if the registered user successfully provided financial consideration for the software to be downloaded or to established a service contract for the software to be downloaded (determine if all transactions related to delivery, such as payment, are complete)(col. 316, ll. 29-34); and

executing the requested commercial transaction when the registered user has provided financial consideration for the software to be downloaded or to established a

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service contract for the software to be downloaded (container is transmitted once all preliminary transactions are complete)(col. 316. ll. 34).

22. Regarding claim 15, Ginter discloses the SWDF system stores information on the commercial transaction rights of external customers (Col 6, lines 43-67).

23. Regarding claim 16, Ginter discloses the SWDF system stores information the entitlements of external customers to engage in commercial transactions (Col 6, lines 43-67).

24. Regarding claim 17, Ginter discloses the SWDF Entitlement Information includes information on whether the customer has a service contract or paid money for the requested software product (Col 6, lines 43-67) and if the customer has entitlement (Col 316, line 22) to proceed the requested software product is downloaded (Col 316, line 34).

25. Regarding claim 18, Ginter discloses the commercial transaction process is an electronic commerce process (Col 1, lines 17-20).

26. Regarding claims 21, Ginter discloses the information associated with an automated software distribution method is organized in accordance with software distribution framework (SWDF) modules that manage the software distribution

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information and activities in accordance with SWDF models (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

27. Regarding claim 22, Ginter disclosed discloses the information associated with an automated software distribution method is organized in accordance with software distribution framework (SWDF) database, wherein SWDF database schema components are configured in accordance with four categories comprising regular database tables, composite link database tables, associating link database tables and runtime information query components (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

28. Regarding claim 23, Ginter discloses the information associated with an automated software distribution method is tracked and manipulated by means for indicating classes, attributes and operations (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

29. Regarding claim 24, Ginter discloses a means for manage different areas of framework information including user information, authorization information, software information, configuration information, commerce information, publication information, and distribution information (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

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30. Regarding claim 25, Ginter discloses a link database table is a persistent storage for the relationship of two objects (Col 134, lines 8-67).

***Claim Rejections - 35 USC § 103***

31. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

32. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al. (US 5,892,900) in view of Official Notice.

33. Regarding claim 19, Examiner takes Official Notice that it was well known in the art at the time of invention that industry standard software products sold comprise software image binary executables, readme information, installation instructions, product manuals, guide and software requirements, and software release note, and software licensing key. It would have been obvious to one of ordinary skill in the art at the time of invention to include software image binary executables, readme information, installation instructions, product manuals, guide and software requirements, and software release note, and software licensing key within a software product distributed using Ginter's distribution system, in order to meet software product industry standards at the time of invention.

***Allowable Subject Matter***

34. Claims 9-13, 27-30 and 32-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

35. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS



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